IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5871 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HEMKUVARBEN M MISTRY

Versus

DELWADA GRAM PANCHAYAT

Appearance:

MR JJ YAJNIK for Petitioner No. 1
MR BY MANKAD AGPRULE SERVED for Respondent No. 1

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 24/12/2001

ORAL JUDGEMENT

None appears on behalf of the petitioner. Heard the learned A.G.P. for the respondent.

2. This petition has been filed by the petitioner to direct the respondent to make payment of the gratuity

amount and other retirement benefits such as dearness allowance, medical allowance and other retirement benefits which have been paid to other similarly situated persons, forthwith. It is stated that the petitioner was working as a Sewing Teacher with the respondent authority i.e. Delwada Gram Panchayat Taluka Una, District Junagadh. The petitioner had served with the respondent authority for about 30 years. The petitioner was aged about 70 years in the year 1988. The petitioner has already retired from service since long back. The petitioner made several requests and representation to the authorities for giving retirement benefits. However, she has not been paid any amount of gratuity and such other retirement benefits, medical allowance, dearness allowance etc. It is also stated that one Gomatiben who was also an employee along with the petitioner, has been paid retirement benefits like medical allowance, dearness allowance and gratuity by the authorities. The petitioner is also similarly situated but she has not been paid any amount towards gratuity and other retirement benefits to which the petitioner is entitled under the law. It is also stated that the petitioner had approached before the authority and the authority under the Payment of Gratuity Act by the order dated 24-7-1987 directed to pay the gratuity amount to the petitioner. Inspite of that direction, no amount of gratuity has been paid to the petitioner. But the petitioner was not supplied the copy of the order dated 24-7-1987 and hence the petitioner could not produce the same. Thus, the action of the respondent is illegal and violative of Articles 14 and 16 of the Constitution of India and contrary to the provisions of Section 33 (C) of the Act.

3. I have carefully considered the submissions made by the learned A.G.P. and the assertions made in the petition. From the petition and material on record, it appears that the petitioner has filed the present petition on vague and baseless assertions and nothing is mentioned in the petition as to what correspondence between the petitioner and the respondent Gram Panchayat took place. It is also not stated in the petition as to in which year and in what capacity the petitioner was appointed and in which capacity the petitioner worked for 30 years with the respondent. It is also not clearly mentioned as to which authority has passed the order dated 24-7-1987 whereby it is stated that the respondent authority was directed to pay the gratuity amount. Inspite of that, the petitioner was not paid any amount of gratuity.

4. It is very difficult for this Court to direct the

respondent to make payment of gratuity and other retirement benefits to the petitioner, in absence of any material on record. The registry of this Court is directed to send copy of this order to the respondent Delwada Gram Panchayat, Taluka Una, District Junagadh and the Delwada Gram Panchayat, Taluka Una, District Junagadh will inquire from the petitioner and from the service record of the petitioner as to whether the petitioner was entitled to the retirement benefits and the order dated 24-7-1987 has been passed by any State Authority or any other authority for payment of gratuity amount to the petitioner. If there is any such order on record, the authority will send copy of that order to the petitioner as well as the respondent Delwada Gram Panchayat will decide the entitlement of retirement benefits including the gratuity amount. In the facts and circumstances of the case, if the petitioner is entitled to retirement benefits, then Delwada Gram Panchayat, Taluka Una, Dist. Junagadh shall prepare necessary papers for payment of gratuity amount and other retirement benefits to which the petitioner is entitled under the Rules within three months from the date of receipt of writ or certified copy of this order. The respondent Delwada Gram Panchayat, Taluka Una Dist. Junagadh within two weeks thereafter will inform the petitioner about decision so that the petitioner may be able to take appropriate action in the facts and circumstances of this case.

5. In view of the above directions and observations, this petition stands disposed of finally. Rule is discharged, with no order as to costs.

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/JVSatwara/